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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,311	09/07/2005	Keith Hart	SMB-PT157(PC 04 01 B US)	6123
3624 7590 12/16/2008 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER RIVELL, JOHN A	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 12/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/548,311	Applicant(s) HART, KEITH	
	Examiner JOHN RIVELL	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/06 (election).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,4-12 and 14-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,13 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of the species of Group B, claims 3, 13, 21, 22 and 24-34 in the reply filed on October 13, 2008 is acknowledged.

Claims 1, 2, 4-12, 14-20 and 23 are thus withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 13, 2008.

Of those claims currently listed as readable on the elected species, claims 21, 22 and 24-34, each ultimately depend from non elected claim 1 and are thus, by dependency, not readable on the elected species. Additionally, on further review, claim 35 is in fact readable on the elected species as it is dependent from claim 3 and includes recited details pertinent to the species of figures 4-8 and is examined below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3, 13 and 35 are rejected under 35 U.S.C. §102 (b) as being anticipated by Blagg (U. S. Pat. No. 2,859,771).

The patent to Blagg discloses, in the figures for example, an “insertable component (generally at seat 11), which is embodied as through-flow regulator that is insertable into a gas or liquid line, comprising a housing (11), with at least one throttle or regulating body (15) being arranged inside said housing, limiting a control gap (between the sides of the housing 11 and the cooperating face of the valve head 15) between the

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throttle or regulating body (15) and a housing (11) wall, with the control gap (between these surfaces) changing depending on pressure, the housing (11) is comprised of at least two housing parts (11 and bolt 16) and between the facing sides of two housing parts, a housing seal (at 23) is provided, which is connected in one piece to the at least one throttle body or regulating body (15) supported inside the housing (11)” as recited.

Regarding claim 13, in Blagg, “the throttle body (15) is mounted in a housing chamber (inside 11) between the upstream and the downstream housing part (bolt 16 and seal at the lower end of the housing 11) and the downstream housing part (bolt 16) is provided with a downstream rest and an exterior support(the periphery of the bolt head) and the upstream housing part (lower end of the housing) is provided with an interior housing wall (valve seat) forming a limit of the control gap or a similar rest for the annular throttle body (15)” as recited.

Regarding claim 35, in Blagg, “at least one housing wall (read at the valve seat of the housing portion 11), limiting a control gap (between the housing wall and the cooperating face of valve 15), is provided with a regulating profiling (e.g. cooperating surfaces) extending approximately in the through-flow direction” as recited.

Of those claims listed as readable on the elected species but are otherwise dependent from a claim not readable on the elected species, note the following.

Claim 21 includes allowable subject matter but is currently dependent on non elected claim 1.

Claim 22 appears to be met by Blagg as Blagg includes a “lip shaped throttle body” at valve 15.

Claim 24 appears to be met by Blagg as Blagg discloses a “lip shaped throttle body (at valve 15) aligned with a free lip end region thereof extending diagonally opposite a through flow direction”. That is the free end of the valve 15 is diagonally opposite a region of the valve in which fluid is allowed to flow

Claim 25 appears to be met in consideration of Blagg in view of Cummings (U. S. Pat. No. 3,022,796) as Cummings discloses the employment of a valve stop at numeral 36 which mechanically stops flexible valve, at 25, lip movement.

Claim 26 appears to be met by Blagg as Blagg discloses “at least one lip shaped throttle body (15) comprising a lip section (at the top free end of the valve) aligned approximately lateral to a through flow direction, which extends to a free lip end region (at the end of the lip of the valve 15) aligned opposite the flow through direction”.

Claim 27 appears to be met in consideration of Blagg in view of Cummings (U. S. Pat. No. 3,022,796) as Cummings discloses the employment of a valve stop at numeral 36 which mechanically stops flexible valve, at 25, lip movement.

Claim 28 appears to be met by Blagg as Blagg discloses a “housing part (11) comprising at least approximately concentric annular walls (one forming the outer seating surface, the other surrounding base 13), connected via approximately radial connection bars” read on the spider like arms connecting base 13 to housing 11 while allowing fluid flow therethrough.

Claim 29 appears to be met by Blagg as the “connection bars (the arms supporting the base relative to the housing) support the throttle body” 15.

Claim 30 appears to include allowable subject matter but is currently ultimately dependent on non elected claim 1.

Claim 31, being dependent on claim 30 appears to include allowable subject matter but is currently ultimately dependent on non elected claim 1.

Claim 32, being dependent on claim 30 appears to include allowable subject matter but is currently ultimately dependent on non elected claim 1.

Claim 33, being dependent on claim 30 appears to include allowable subject matter but is currently ultimately dependent on non elected claim 1.

Claim 34 appears to be met by Blagg in view of widely known notoriously old varietals in flexible valve materials.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN RIVELL whose telephone number is (571)272-4918. The examiner can normally be reached on Mon.-Fri. from 6:00am-2:30pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/John Rivell/
John Rivell
Primary Examiner
Art Unit 3753**